

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

CIV S-04-1263 FCD PAN PS

v.

WILLIAM J. BIGGS AND  
BETTY BIGGS,

ORDER

Defendants.

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On January 27, 2006, plaintiff filed a motion to compel defendants' depositions and for sanctions. Fed. R. Civ. P. 37(d). The motion came on regularly for hearing February 23, 2006. John F. Gisla appeared for plaintiff. Defendants neither appeared nor filed any opposition to plaintiff's motion. Upon review of plaintiff's motion and the documents in support thereof, upon hearing the argument of plaintiff's counsel and good cause appearing therefor, THE COURT GRANTS PLAINTIFF'S JANUARY 27, 2006, MOTION AND ORDERS AS FOLLOWS:

1. Defendants William and Betty Biggs shall appear for their depositions on Friday, March 3, 2006, at 10:00 a.m., at the Office of the U.S. Attorney, 501 I Street, Suite 10-100,

Sacramento, California 95814.

2. Defendants shall pay plaintiff the reasonable expenses, including attorney fees, incurred as a result of defendants' failure to appear for their duly noticed depositions on January 27, 2006. Defendants shall pay plaintiff \$796.25, which includes the fees of plaintiff's counsel (3.5 hours at \$200 per hour)<sup>1</sup> and the cost of retaining the court reporter (\$96.25), both of which the court finds reasonable.

3. Failure of defendants to appear for their depositions on March 3, 2006, may result in an order striking defendants' answer to plaintiff's complaint and instructions to the Clerk of Court to enter defendants' default.

DATED: February 23, 2006.

John F. Morris  
UNITED STATES MAGISTRATE JUDGE

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<sup>1</sup> Plaintiff's counsel stated at the hearing on this matter that he spent 2 hours waiting for defendants to appear at their depositions noticed for January 27, 2006, 1 hour preparing the instant motion, and .5 hour preparing for and appearing at the hearing.